

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RAYMOND OBIAJULU,

Plaintiff,

v.

RITE AID HDQTRS. CORP., et al.,

Defendant.

Case No. 2:07-cv-1287-KJD-LRL

ORDER

Presently before the Court is Plaintiff's Objection to Defendant's Bill of Costs (#106) and his Motion to Stay Costs Pending Outcome of Appeal (#107). Defendant Rite Aid Corporation did not file an opposition.

I. Facts and Procedural History

On October 21, 2009, the Court entered an Order granting Defendant's Motion for Summary Judgment (#103). The Defendant submitted its Bill of Costs on October 27, 2009 (#105). Plaintiff timely filed an Objection on November 9, 2009 (#106). On November 20, 2009, Plaintiff submitted a Notice of Appeal (#108). In the present Motion, Plaintiff seeks to stay the costs until the outcome of his appeal is known.

The Court has reviewed Plaintiff's Objection to Plaintiff's Bill of Costs and his Motion to

1 Stay Costs Pending Outcome of Appeal. For the reasons given below, the Court grants Plaintiff's
2 Motion to Stay Costs Pending Outcome of Appeal and denies Plaintiff's Objection to the Bill of
3 Costs.

4 **II. Discussion**

5 Because Defendant made no objection to Plaintiff's Motion to Stay Costs Pending Appeal,
6 the Court grants Plaintiff's Motion. Local Rule 7-2(d) provides that "[t]he failure of an opposing
7 party to file points and authorities in response to any motion shall constitute a consent to the granting
8 of the motion." Defendant Rite Aid's failure to file an opposition constitutes a consent to the
9 granting of Plaintiff's Motion. Accordingly, Plaintiff's Motion for Stay is granted.

10 However, the Court rejects Plaintiff's objection to Defendant's Bill of Costs. The Court finds
11 that Defendant's costs for copies were reasonable, especially given the large volume of paperwork
12 generated by this litigation. Defendant satisfied the verification requirements of 28 U.S.C. § 1924
13 when its counsel signed the declaration accompanying its Bill of Costs. Though Local Rule 54-1
14 provides that documentation is not always required, Defendant submitted documentation of the costs
15 incurred on copies. Defendants declared under penalty of perjury that these copies were made for
16 this litigation. Because the costs are reasonable, the Court denies Plaintiff's objections to
17 Defendant's copy costs.

18 Furthermore, the Court rejects Plaintiff's objections to Plaintiff's Bill of Costs regarding
19 reimbursements for depositions. Local Rule 54-4 provides that court reporting expenses, and costs
20 either for an original or copy of a transcript, are taxable. The Court also notes that Defendants
21 submitted documentation of these costs, which is not always required. The rates charged by the court
22 reporter are reasonable in comparison with rates customarily charged in the area. Accordingly, the
23 Court finds that the costs billed for court reporting services is reasonable.

24 The Court rejects Plaintiff's additional contentions regarding deposition copies. These court
25 reporting invoices are not merely for copies; they seek payment for the professional services
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1 rendered. The invoice total includes the cost for a copy of the deposition transcript, since that service
2 is not separately itemized. It does not appear that the court reporter charged extra for the certified
3 copy in its December 29, 2008 invoice, since it is not separately itemized. Accordingly, the Court
4 rejects Plaintiff's objection to these costs.

5 Plaintiff avers that Local Rule 54-3 prevents recovery for deposition costs. However, this
6 rule is inapplicable because it governs reimbursement for transcripts of court proceedings.
7 Depositions are not court proceedings. Accordingly, the Court rejects Plaintiff's objections to these
8 costs.

9 **III. Conclusion**

10 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff Obiajulu's Motion to Stay Bill of
11 Costs Pending Appeal (#107) is **GRANTED** to the extent that payment of costs is stayed pending
12 appeal.

13 **IT IS FURTHER ORDERED** that Plaintiff Obiajulu's Objection to Bill of Costs (#106) is
14 **DENIED**.

15 DATED this 9th day of August 2010

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19 Kent J. Dawson
20 United States District Judge
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